IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

Crl.Rev.Pet.No. 554 of 2007()

CRA.666/2005 of ADDL.SESSIONS COURT, KOZHIKODE
CC.575/2003 of JUDL.MAGISTRATE OF FIRST CLASS, KOYILANDY

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REVN. PETITIONER: APPELLANT/ACCUSED

HUSSAIN, S/O. KUNHI MUHAMMED MASTER,
VANAYATHIL HOUSE, AGED 47 YEARS,
PUTHERIKKAL, PARAPPANANGADI, MALAPPURAM.

BY ADV. SRI.D.ROBINSON
SRI.C.T.SOMAN

RESPONDENTS: RESPONDENTS/COMPLAINANT & STATE

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1. GANGADHARAN, S/O. NARAYANAN NAIR,
PULIYANCHERI HOUSE, MUCHKUNNU, KOYILANDI.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

CRL.R.P.No.554 of 2007

Dated this the 7th day of March, 2007

ORDER

Revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced, as modified by the appellate court, to imprisonment till the rising of the court and to pay a compensation of Rs.40,000/- vide Section 357(3) of Code of Criminal Procedure and in default, to undergo simple imprisonment for a period of two months.

2. The findings are concurrent. The contentions of the revision petitioner is that he was forcibly taken to the local office of the C.M.P., a political party and that he was compelled to execute two cheques for a sum of Rs.40,000/- each. According to him, he had filed a complaint before the local police station and subsequently also filed a complaint before the Chief Judicial Magistrate. The evidence adduced in support of the above contention is the testimony of DW1, the accused himself and Ext. D1 refer notice. The court below have found that the above evidence is hardly sufficient to rebut the statutory presumptions.

He had not sent reply to the lawyer notice received. He has not summoned the documents from the police station wherein he has lodged a complaint. He has not summoned or examined any witnesses in support of his version. According to him, the cheques were got executed by one Azeez. He has not taken any steps to summon the above Azeez. In the light of the evidence before the court below as discussed in the judgments of the courts below, I find that there is no scope for interference. In the circumstances, revision petition is liable to be dismissed at the threshold.

3. All the same, considering the plea of the counsel for the revision petitioner, the revision petitioner is granted six months' time from today onwards to deposit the amount of compensation. He shall appear before J.F.C.M., Koilandy on 6.9.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl